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Report of the International Criminal Court

Report of the International Criminal Court

Note by the Secretary-General

The report of the International Criminal Court on its activities for 2012/13 is submitted herewith to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 19 of General Assembly resolution 66/262.

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Report of the International Criminal Court for 2012/13

Summary

One hundred and twenty-two States are now parties to the Rome Statute of the International Criminal Court, following ratification by Côte d'Ivoire on 15 February 2013.

During the reporting period, six States ratified amendments on the crime of aggression and seven States ratified amendments on certain crimes in non-international armed conflicts, bringing the total number of States to have accepted these amendments to seven and nine, respectively; 72 countries have ratified the Agreement on the Privileges and Immunities of the International Criminal Court, with only one State joining during the reporting period.

The caseload of the Court continues to increase. Eight situations are currently under investigation, and eight situations are under preliminary examination. Two cases moved to the appeals stage (*Lubanga* and *Katanga* cases). One accused was acquitted (Mathieu Ngudjolo Chui). The trial of Jean-Pierre Bemba Gombo is still ongoing. The trials in the Kenya and the Banda and Jerbo cases are scheduled to start in due course. The Gbagbo case remains at the pretrial stage. All cases in the situations of Libya and Darfur, Sudan — referred to the Court by the United Nations Security Council — remain at the pretrial stage. In these situations, none of the arrest warrants issued by the Court have been executed. Mr. Ntaganda, in the situation in the Democratic Republic of the Congo, was the first person subject to an arrest warrant of the International Criminal Court to surrender himself to the Court.

Arrest warrants issued by the Court remain outstanding against 12 individuals:

(a) Uganda: Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen, since 2005;

(b) Democratic Republic of the Congo: Sylvestre Mudacumura, since 2012;

(c) Darfur, the Sudan: Ahmad Harun and Ali Kushayb, since 2007; Omar Al Bashir, two warrants, since 2009 and 2010; and Abdel Raheem Hussein, since 2012;

(d) Libya: Saif Al-Islam Gaddafi and Abdullan Al-Senussi, since 2011;

(e) Côte d'Ivoire: Simone Gbagbo, since 2012.

The Court requires timely and full cooperation from States parties to assist and support the Court in its activities, including the arrest and surrender of persons, asset tracking and freezing, and victim and witness protection. The Court also needs States parties' support for acquittals, provisional releases, the enforcement of sentences and the execution of the decisions and orders of the Court.

Public and diplomatic support for the mandate of the Court further contributes to its effective functioning, and the Court recognizes the valuable support of civil society and international organizations. The continuous cooperation of the United Nations is particularly appreciated.

Contents

		Page
I.	Introduction	4
II.	Judicial proceedings	4
III.	Investigations and preliminary examinations	11
IV.	International cooperation	17
V.	Institutional developments	21
VI.	Conclusion	21

I. Introduction

1. The present report, covering the period 1 August 2012 to 31 July 2013, is the ninth annual report of the International Criminal Court submitted to the United Nations in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court.[1]

II. Judicial proceedings

2. During the reporting period, proceedings before the Court continued in the seven existing situations: Uganda, the Democratic Republic of the Congo, Darfur (the Sudan), the Central African Republic, Kenya, Libya and Côte d'Ivoire.

3. On 16 January 2013, the Prosecutor opened an investigation in Mali following a referral by the country in July 2012.

4. During the reporting period, the Court received 716 applications for participation in proceedings and 722 applications for reparation. The Registry filed 70 transmissions, observations and reports in relation to victim issues. There are 13 defence teams working before the Court — 8 of which are funded by the legal aid scheme — and another 10 teams of legal representatives, all under the legal aid scheme.

A. Situation in the Democratic Republic of the Congo

1. *The Prosecutor v. Thomas Lubanga Dyilo*

5. On 3 October 2012, Mr. Lubanga filed appeals against the Trial Chamber I's judgment of 14 March 2012, convicting him, as well as the Trial Chamber's decision of 10 July 2012, sentencing him to 14 years of imprisonment. On the same day, the Prosecutor filed an appeal against the sentencing decision. The Appeals Chamber has rendered numerous interlocutory decisions in relation to these appeals, including on the participation of victims in the proceedings.

6. On 24 August, and 3 and 6 September 2012, Mr. Lubanga and the legal representatives of two victims' groups filed appeals under article 82(4) of the Statute against the decision of Trial Chamber I of 7 August 2012 on reparations. Mr. Lubanga filed a separate appeal against this decision under article 82(1)(d) on 10 September 2012. On 28 September and 1 October 2012, the legal representatives of two victims' groups, the Office of Public Counsel for victims, the Prosecutor, Mr. Lubanga, and the Trust Fund for Victims submitted their respective observations. The Appeals Chamber determined, on 14 December 2012, that the appeals brought under article 82(4) of the Statute were admissible, whereas the appeal brought under article 82(1)(d) was not, because the Trial Chamber's decision of 7 August 2012 was deemed to be a reparations order. On 8 April 2013, upon the invitation of the Appeals Chamber, the Trust Fund for Victims submitted observations on the documents in support of the appeals.

[1] United Nations, *Treaty Series*, vol. 2283, No. 1272.

2. *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*

7. On 21 November 2012, Trial Chamber II decided to sever the cases of Mr. Katanga and Mr. Ngudjolo. In the case against Mr. Ngudjolo, the Chamber acquitted the accused of all charges on 18 December 2012. The Prosecutor's appeal against this decision is pending. Upon his release, Mr. Ngudjolo applied for asylum in the Netherlands, where he currently remains. In this regard, the Appeals Chamber has issued several mainly confidential decisions.

8. In the case against Mr. Katanga, the Chamber decided to activate Regulation 55 of the Regulations of the Court and gave notice to the accused that it was considering recharacterizing charges in terms of criminal responsibility. In particular, the Chamber decided to consider the possibility that Mr. Katanga could be responsible under article 25(3)(d)(ii) of the Statute instead of article 25(3)(a). Mr. Katanga challenged that decision, but his appeal was rejected by the Appeals Chamber on 24 March 2013.

9. Subsequently, the Chamber decided that Mr. Katanga should be given an opportunity to re-examine previous or new witnesses, or to present other evidence admissible under the Statute, in accordance with Regulation 55(3) of the Regulations of the Court. The deadline for the defence to submit its final list of evidence is 17 September 2013.

3. *The Prosecutor v. Callixte Mbarushimana*

10. On 3 September 2012, Pre-Trial Chamber II rejected *in limine* a request presented by the defence to review decisions by the Registrar with regard to the scope of the legal aid paid by the Court.

4. *The Prosecutor v. Bosco Ntaganda*

11. On 26 March 2013, Bosco Ntaganda appeared before Pre-Trial Chamber II after his voluntary surrender to the Court. During the initial appearance, it was decided that the confirmation of charges hearing would start on 23 September 2013.

12. On 12 April 2013, Pre-Trial Chamber II set the regime for evidence disclosure and requested the parties, inter alia, to proceed with a detailed analysis of each piece of evidence to be presented in order to describe its relevance for the case.

13. On 17 June 2013, the Chamber postponed the confirmation of charges hearing until 10 February 2014, upon the request of the Prosecutor in order to allow sufficient time to comply with her statutory investigation and prosecution obligations.

14. On 28 May 2013, Pre-Trial Chamber II established principles on the victims' application process, deciding, inter alia, that the Court should conduct a comprehensive and timely outreach mission for potential victim applicants and design a one-page simplified victim participation application form.

15. On 26 June 2013, Pre-Trial Chamber II rejected a request by the legal representative of nine victims participating in the case of Mr. Lubanga Dyilo in order for them to be automatically admitted in the case against Mr. Ntaganda, stating it was imperative for victims already participating in a case to express their specific desire to participate in other cases.

B. Situation in the Central African Republic

The Prosecutor v. Jean-Pierre Bemba Gombo

16. The defence started its presentation of evidence on 14 August 2012.

17. On 21 September, Trial Chamber III issued a decision giving notice to parties and participants that the legal characterization of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court. The potential change entails considering, under the same mode of responsibility, the alternate form of knowledge contained in article 28(a)(i) of the Statute.

18. On 13 December 2012, the Chamber issued a decision on the temporary suspension of proceedings, in which it decided to suspend hearings until 4 March 2013 to give the accused sufficient time for the effective preparation of his defence. On 6 February 2013, the Chamber granted the defence's request to lift the temporary suspension of proceedings. The presentation of evidence by the defence resumed on 25 February 2013.

19. The defence was initially instructed to complete its presentation of evidence within eight months, by April 2013. However, as a result of difficulties with the appearance of witnesses, only 25 out of the 63 witnesses initially scheduled have appeared before the Chamber to date.

20. On 16 July 2013, the Chamber issued a decision on the timeline for the completion of the defence's presentation of evidence and issues related to the closing of the case. The Chamber, inter alia, ordered that the presentation of evidence by the defence be concluded by 25 October 2013 and gave directions in relation to the submission of closing briefs.

C. Situation in Darfur

1. *The Prosecutor v. Omar Hassan Ahmad Al Bashir*

21. On 15 February 2013, Pre-Trial Chamber II issued an order regarding the alleged upcoming visit by Omar Al Bashir to Ndjamena requesting Chad to arrest him and surrender him to the Court in line with its obligations under the Rome Statute.

22. On 22 February 2013, the Chamber issued a decision requesting observations from Chad on its alleged failure to execute the request and its alleged failure to consult with the Court on problems that might have impeded the execution of such requests.

23. On 26 March 2013, the Chamber issued its decision on the non-compliance of Chad with the cooperation requests issued by the Court regarding the arrest and surrender of Omar Al Bashir. The Court referred the matter to the Security Council and the Assembly of States Parties. The Chamber noted that, without follow-up actions from the Security Council, referrals made by the Council would become futile.

24. On 15 July 2013, the Chamber received a notification from the Prosecutor in which she informed the Chamber that Omar Al Bashir had arrived in the Nigerian capital, Abuja, to participate in a special summit of the African Union. The same

day, the Chamber issued a decision requesting the Federal Republic of Nigeria to immediately arrest Omar Al Bashir and surrender him to the Court.

2. *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*

25. On 26 October 2012, Trial Chamber IV rejected a defence request for a temporary stay of the proceedings, holding that, if necessary, the difficulties the defence has faced in its investigations in Darfur would be taken into account during the course of the trial.

26. On 6 March 2013, the Chamber announced that the trial would commence on 5 May 2014. The Chamber decided that the accused persons' attendance at the trial shall continue to be on the basis of the summonses to appear.

27. On 23 April 2013, the defence notified the Chamber that it had received information that Mr. Jerbo had died in Northern Darfur. The Chamber is currently considering the appropriateness of terminating the proceedings as regards Mr. Jerbo or severing his case from that of Mr. Banda.

3. *The Prosecutor v. Abdel Raheem Muhammad Hussein*

28. On 25 April 2013, the Prosecutor notified Pre-Trial Chamber II that Mr. Hussein was planning to participate in a conference in Chad.

29. On 26 April 2013, the Chamber issued an order reminding Chad of its obligations under the Rome Statute to arrest Mr. Hussein and surrender him to the Court.

D. Situation in Kenya

1. *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*

30. On 3 October 2012, Trial Chamber V issued a decision establishing a simplified system for victims' participation applications. The decision establishes a two-track system for victims who either choose to participate through the representation of the common legal representative or wish to present their views and concerns individually. The decision also set out the modalities of victims' participation through the common legal representative.

31. The trial commencement date has been moved twice from 10 April 2013 and is now set to 10 September 2013.

32. On 18 June 2013, the Chamber issued a decision exempting Mr. Ruto from continuous presence during the trial owing to his duties as Deputy President of Kenya. The decision directs Mr. Ruto to sign a waiver in respect of his right to be present during trial and sets out a list of stages during which he is required to be present. On 18 July 2013, the Chamber granted the Prosecution's request for leave to appeal the decision. The Prosecutor filed a document in support of the appeal against this decision on 29 July 2013.

2. *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*

33. On 22 January 2013, the Prosecutor requested permission from Pre-Trial Chamber II to amend charges in accordance with article 61(9) of the Statute to reinsert a factual allegation that the Chamber denied at the time of the confirmation of the charges because of insufficient evidentiary support.

34. On 21 March 2013, the Chamber granted the request, as it found that the Prosecutor had provided a reasonable justification in relation to the continuation of her investigation subsequent to the confirmation hearing.

35. On 3 October 2012, Trial Chamber V established the same system of victims' participation as in the Ruto and Sang case (see para. 30).

36. The Prosecutor terminated proceedings against Mr. Mathaura after the Chamber authorized her to do so on 18 March 2013.

37. The trial commencement date has been moved twice from 11 April 2013 and is now set at 12 November 2013.

38. On 26 April 2013, the Chamber denied a defence request to stay the proceedings due to the invalidity of the confirmation decision.

E. Situation in Libya

The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi

Saif Al-Islam Gaddafi

39. On 9 and 10 October 2012, the Chamber held a hearing on Libya's admissibility challenge in the Saif Al-Islam Gaddafi case in the presence of representatives of Libya, the Prosecutor, the Defence for Saif Al-Islam Gaddafi and the Office of Public Counsel for Victims.

40. On 31 May 2013, Pre-Trial Chamber I rejected the admissibility challenge presented by Libya in the Saif Al-Islam Gaddafi case. The Chamber concluded that Libya did not present sufficient evidence to demonstrate that it was investigating the same case as that before the Court. The Court rejected Libya's request presented on 4 March, and reiterated on 28 March 2013, to adduce further evidence. The Chamber also concluded that Libya's national system was unable to secure the transfer of the accused into their custody or to carry out the proceedings in the case against Saif Al-Islam Gaddafi.

41. On 7 June 2013, Libya filed an appeal against the 31 May 2013 decision of Pre-Trial Chamber I. Subsequently, the parties and participants filed their submissions on the appeal, including on the request made by Libya for suspensive effect.

42. On 18 July 2013, the Appeals Chamber rejected the request for suspensive effect. The Appeals Chamber saw no merit in the reasons submitted by Libya in support of the request and recalled that Libya is currently under an obligation to surrender Mr. Gaddafi to the Court.

Abdullah Al-Senussi

43. On 17 September 2012, the Registrar presented to Pre-Trial Chamber I with her second report on the status of the execution of the request for arrest and

surrender of Abdullah Al-Senussi. She informed the Chamber that a note verbale had been transmitted to the competent Libyan authorities on 10 September 2012 requesting that they confirm the extradition of Abdullah Al-Senussi from Mauritania to Libya and provide the name of the detention centre in which he was being held and information regarding his state of health.

44. On 10 December 2012, after the Registrar advised that no such official confirmation or information had been received from the Libyan authorities, Pre-Trial Chamber I issued an order instructing the Registrar to remind the Libyan authorities of their obligation to arrest Abdullah Al-Senussi and to surrender him to the Court. In addition, the Chamber requested Libya to provide the information the Registry had requested on 10 September 2012 regarding Mr. Al-Senussi no later than 15 January 2013.

45. On 9 January 2013, the Defence of Abdullah Al-Senussi filed an application in which it requested the Chamber to refer Libya and Mauritania to the Security Council for their non-compliance with their obligations to cooperate with the Court.

46. On 15 and 16 January 2013, Libya confirmed that Abdullah Al-Senussi was in its custody and that national judicial proceedings were ongoing. Libya also provided the requested information regarding the detention centre in which he was being held and his state of health.

47. On 6 February 2013, Pre-Trial Chamber I ordered the Libyan authorities to proceed with the immediate surrender of Abdullah Al-Senussi to the Court and to refrain from taking any action that would frustrate, hinder or delay compliance by Libya with its obligation to surrender him to the Court. In addition, the Chamber ordered the Registrar to make the necessary arrangements with the Libyan authorities for a privileged visit to Abdullah Al-Senussi by his Defence.

48. On 12 February 2013, Libya filed a request for leave to appeal the decision issued on 6 February 2013. This application was rejected on 25 February 2013 by Pre-Trial Chamber I.

49. On 2 April 2013, Libya filed an application challenging the admissibility of the case before Pre-Trial Chamber I.

50. On 26 April 2013, Pre-Trial Chamber I issued its decision on the conduct of the proceedings following the admissibility challenge filed by Libya. The Chamber invited the Defence for Abdullah Al-Senussi, the Office of Public Counsel for Victims as legal representative of victims in this case, and the Security Council to submit observations on the admissibility challenge filed by Libya no later than 14 June 2013.

51. On 14 June 2013, Pre-Trial Chamber I decided that Libya could postpone the execution of the surrender request in relation to Abdullah Al-Senussi pending determination of its admissibility challenge filed before the Court. In the same decision the Chamber also rejected a renewed request made on 19 March 2013 by the Defence for Abdullah Al-Senussi to make a finding of non-cooperation by Libya and refer the matter to the Security Council.

52. On 16 July 2013, Pre-Trial Chamber I authorized Libya, at its request, to file a consolidated reply to the observations filed by the Prosecutor, the Office of Public Counsel for Victims and the Defence for Abdullah Al-Senussi by no later than 14 August 2013.

F. Situation in Côte d'Ivoire

1. *The Prosecutor v. Laurent Gbagbo*

53. On 15 August 2012, Pre-Trial Chamber I rejected the Defence challenge to the jurisdiction of the Court.

54. On 24 and 25 September 2012, the Chamber held a hearing in the presence of Laurent Gbagbo, his Defence, the Prosecutor, representatives of the Registry and the experts appointed by the Chamber to discuss issues related to Laurent Gbagbo's fitness to take part in the proceedings against him.

55. On 2 November 2012, the Chamber found that Laurent Gbagbo was fit to take part in the proceedings before the Court.

56. On 6 February 2013, the Chamber issued its second decision on victims' participation at the confirmation of charges hearing and in related proceedings in which it admitted 60 further victims to participate and appointed the Office of Public Counsel for Victims as the common legal representative for all victims admitted to participate.

57. The hearing on the confirmation of charges was held from 19 to 28 February 2013.

58. On 3 June 2013, the Chamber decided to adjourn the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Statute, and requested the Prosecutor to consider providing further evidence or conducting further investigation with respect to all charges. The Chamber established a calendar for subsequent proceedings requesting, inter alia, the Prosecutor submit, by 15 November 2013, an amended document containing the charges and an amended list of evidence. The Defence was given until 16 December 2013 to submit observations on the Prosecutor's evidence and to file its amended list of evidence. Thereafter, the Prosecutor and the Office of Public Counsel for Victims were given until 24 January 2014 to submit their final written observations. The Defence was given until 7 February 2014 to submit its final written submissions. On 31 July 2013, the Chamber partly granted the Prosecutor leave to appeal following her request on 10 June 2013 regarding the decision to adjourn the hearing on the confirmation of charges.

59. On 11 June 2013, Pre-Trial Chamber I rejected the challenge against the admissibility of the case filed on 15 February 2013 by the Defence.

60. On 12 November 2012, 12 March 2013 and 11 July 2013, Pre-Trial Chamber I issued decisions on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Statute and in each case, decided to keep him in detention.

2. *The Prosecutor v. Simone Gbagbo*

61. On 22 November 2012, Pre-Trial Chamber I reclassified as public a warrant of arrest issued under seal against Simone Gbagbo on 29 February 2012. This warrant was issued for the crimes against humanity of murder, rape and other forms of sexual violence, persecution and other inhumane acts committed in Côte d'Ivoire between 16 December 2010 and 12 April 2011.

III. Investigations and preliminary examinations

A. Investigations

1. Situation in the Democratic Republic of the Congo

62. During the reporting period, the Office of the Prosecutor conducted two missions to the Democratic Republic of the Congo to collect information necessary in support of trials and to address the arguments raised by the Defence in the cases against Mr. Lubanga Dyilo, Mr. Katanga and Mr. Ngudjolo Chui.

63. The Office of the Prosecutor also conducted six missions to three countries for its third investigation, focusing on crimes committed by the Forces démocratiques de libération du Rwanda (FDLR) in the Kivu provinces, in particular in relation to its case against Mr. Mudacumura. The investigation into alleged crimes committed in the Kivus continues, including in relation to other leaders of FDLR and other groups.

64. Following the voluntary surrender of Mr. Ntaganda, the Office of the Prosecutor conducted 11 missions to 4 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners in relation with the continued investigation concerning the alleged crimes committed by Mr. Ntaganda.

65. Nineteen further missions were conducted in relation to the activities of the Office of the Prosecutor in the Democratic Republic of the Congo.

2. Situation in Uganda

66. During the reporting period, the Office of the Prosecutor did not conduct any missions in relation to the situation in Uganda. Nevertheless, it continued to gather information on crimes allegedly committed by the Lord's Resistance Army (LRA) and to promote action to implement warrants against the LRA leadership. It also continued gathering and analysing information related to alleged crimes committed by the Uganda People's Defence Forces. The Office of the Prosecutor continues to encourage national proceedings in relation to both parties to the conflict.

3. Situation in the Central African Republic

67. During the reporting period, the Office of the Prosecutor continued its investigation into the situation in the Central African Republic and conducted a total of 17 missions to 5 countries for the purposes of, inter alia, meetings with witnesses and following up on information received, and securing the continued cooperation of partners.

4. Situation in Darfur

68. During the reporting period, the Office of the Prosecutor conducted six missions to five countries in relation to investigations into the situation in Darfur.

69. In accordance with Security Council resolution 1593 (2005), the Prosecutor presented his sixteenth and seventeenth reports on the situation in Darfur to the Security Council. In her briefings of 13 December 2012 and 5 June 2013, the Prosecutor, inter alia, highlighted the lack of cooperation by the Government of the Sudan and the lack of national proceedings against those responsible for the crimes

committed. The Office of the Prosecutor highlighted its concern, shared by the Security Council, as expressed in its resolution 2091 of 14 February 2013, regarding the ongoing aerial bombardments in Darfur; the use of sexual violence as a weapon of war; the deliberate imposition of restrictions on the delivery of humanitarian aid; and the ongoing impunity for these crimes. The Office shares the concerns of the Council that business relations with the Sudan, if not monitored carefully, could have the effect of facilitating, funding and supporting crimes against civilians.

70. The Office of the Prosecutor continues to monitor and gather information regarding the situation in Darfur. The information collected indicates that crimes against humanity, war crimes and genocide continue to be committed. The Office notes in particular reports of ongoing involvement of International Criminal Court indictee Ali Kushayb with the Sudanese Central Reserve Forces in the alleged commission of crimes in Central Darfur in April 2013, as well as ongoing involvement of International Criminal Court indictees Ahmad Harun and Abdel Raheem Hussein in alleged crimes elsewhere in the Sudan.

71. The Office of the Prosecutor took note of the visit of the Head of the Office for the Coordination of Humanitarian Affairs to Khartoum from 20 to 23 May, including a meeting with International Criminal Court indictees Omar Al Bashir, Abdel Raheem Hussein and Ahmad Harun. The Office of the Prosecutor expressed its appreciation for the prior notification of the meeting given by the United Nations, as well as the United Nations assessment that the meeting was considered to be strictly required for carrying out essential duties mandated by the United Nations. The Office of the Prosecutor strongly encourages the United Nations to conduct an ongoing critical analysis of such contacts, in order to assess whether they have indeed succeeded in contributing to the successful conduct of duties mandated by the United Nations, to ensure that the gain to the United Nations is worth the costs of such contact, and does not instead embolden fugitives from justice to think that they will be rewarded for manipulating their way into positions of "indispensability" even as they continue to commit crimes.

5. Situation in Kenya

72. During the reporting period, the Office of the Prosecutor undertook 104 missions to 15 countries in relation to investigations into the situation in Kenya.

73. The Office of the Prosecutor continued to gather information on the crimes against humanity of murder, the deportation or forcible transfer and persecution that were allegedly committed in Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills, from around 30 December 2007 until the end of January 2008.

74. Similarly, the Office of the Prosecutor continued to gather information on the crimes against humanity of murder, deportation or forcible transfer, rape, other inhumane acts and persecution, allegedly committed between 24 and 28 January 2008, against the civilian residents of Nakuru and Naivasha, who were seen as supporters of the Orange Democratic Movement, in particular those belonging to the Luo, Luhya and Kalenjin ethnic groups.

6. Situation in Libya

75. During the reporting period, the Office of the Prosecutor conducted 27 missions to 12 countries in relation to investigations into the situation in Libya.

76. During the reporting period, the Office of the Prosecutor presented its fourth and fifth reports to the Security Council on the situation in Libya, on 7 November 2012 and on 8 May 2013. The Office of the Prosecutor, inter alia, noted the formation of a new Government under Prime Minister Ali Zeidan on 14 November 2012 and a new Prosecutor-General on 17 March 2013, and the ongoing dialogue about cooperation between the Office of the Prosecutor and the Government of Libya.

77. The Office of the Prosecutor also indicated its awareness of allegations of serious crimes committed by former Gaddafi officials, some of whom are outside of Libya. The Office of the Prosecutor is engaged in the process of documenting the most serious of those crimes and the current activities of those officials who were most responsible for them. The Office of the Prosecutor plans to take a decision regarding a second case in the near future, and will consider additional cases after that, depending on the progress of the Government of Libya in implementing its comprehensive strategy.

78. The Office of the Prosecutor continues to be concerned about allegations of crimes committed by rebel forces, including the expulsion of residents of Tawergha, ongoing alleged persecution of ethnic groups perceived to have been affiliated with the Gaddafi regime and specific incidents as yet unaccounted for, including the alleged execution of 50 persons on the grounds of the Mahari Hotel in Sirte, Libya, in October 2011, and alleged arbitrary detentions, torture, killings and destruction of property that arose during operations of the Government of Libya and militia operations in Bani Walid in September 2012.

79. The Office of the Prosecutor, while welcoming the first democratic election in four decades, noted that Libya faces an enormous challenge in addressing the many years of impunity.

7. Situation in Côte d'Ivoire

80. During the reporting period, the Office of the Prosecutor continued its investigation into the situation and conducted 48 missions to 5 countries for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses, and securing the continued cooperation of its partners. The Office of the Prosecutor is focusing on allegations of crimes against humanity committed in violation of articles 7(1)(a), 7(1)(g), 7(1)(h) and 7(1)(k) of the Rome Statute.

8. Situation in Mali

81. On 16 January 2013, the Prosecutor formally opened an investigation into alleged crimes committed on the territory of Mali since January 2012. This decision was the result of the preliminary examination of the situation in Mali that the Office had been conducting since July 2012, and during which the Office had identified potential cases of sufficient gravity to warrant further action.

82. Since opening the investigation, the team has conducted 12 investigative missions to 4 countries.

83. The Office of the Prosecutor continues to collect information and evidence about alleged crimes on the entire territory of Mali. However, on the basis of the results of the preliminary examination, initial geographical emphasis has been given to the three northern regions.

84. The Office of the Prosecutor is, inter alia, giving particular attention to allegations concerning the intentional directing of attacks against buildings dedicated to religion and historic monuments, pursuant to article 8(2)(e)(iv) of the Rome Statute, including those that have received World Heritage status, and has accordingly cooperated with UNESCO. The Office of the Prosecutor has also sought cooperation with a number of other United Nations agencies present in Mali, including from the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

B. Preliminary examinations

85. During the reporting period, the Office of the Prosecutor opened a preliminary examination of the situation on registered vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia; continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, the Republic of Korea and Nigeria; and concluded its preliminary examination of the situation in Mali. The Office of the Prosecutor published a report on its preliminary examination activities on 22 November 2012.[2]

86. The Office of the Prosecutor continued to analyse information received from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 August 2012 until 30 June 2013, the Office of the Prosecutor received 572 communications relating to article 15 of the Rome Statute, of which 477 were manifestly cutside the Court's jurisdiction; 19 were unrelated to current situations and warranted further analysis; 43 were linked to a situation already under analysis; and 33 were linked to an investigation or prosecution.

1. Afghanistan

87. The Office of the Prosecutor is gathering and corroborating additional information to support its analysis of whether there is a reasonable basis to believe that war crimes and crimes against humanity within the Court's jurisdiction have been committed by parties to the conflict in Afghanistan. The Office continues to maintain contact with experts, civil society organizations, Afghan Government officials, United Nations officials and concerned States, and expects to reach a determination on subject-matter issues in the near future.

88. The preliminary examination of the situation in Afghanistan has been hampered by a number of constraints, including security concerns and limited or reluctant cooperation from many partners. Several requests for information sent by the Office in the past two years to various States, including the Government of Afghanistan and States with troops in Afghanistan, have been dismissed or remain pending. Ultimately, six States have replied to a formal request for information from the Office of the Prosecutor. The Office of the Prosecutor has accordingly taken steps to improve cooperation with relevant stakeholders, including the Government of Afghanistan and international and local non-governmental organizations (NGOs).

[2] Office of the Prosecutor, Report on Preliminary Examination Activities 2012, 22 November 2012; available at www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/Pages/Report-on-Preliminary-Examination-Activities-2012.aspx.

2. Colombia

89. The Office of the Prosecutor published an interim report on its preliminary examination of the situation in Colombia on 14 November 2012[3] that summarizes the analysis undertaken to date, including the findings of the Office regarding jurisdiction and admissibility. Pursuant to those findings, the preliminary examination will focus on: (i) follow-up on the Legal Framework for Peace and other relevant legislative developments, including jurisdictional aspects related to the emergence of "new illegal armed groups"; (ii) proceedings related to the promotion and expansion of paramilitary groups; (iii) proceedings related to forced displacement; (iv) proceedings related to sexual crimes; and (v) false positive cases.

90. The Office of the Prosecutor conducted two missions to Colombia in order to obtain additional information on measures taken by Colombian authorities to address the areas of focus identified above. The Office continued its exchange of communications with the Government of Colombia and Colombian NGOs in regard to these issues, and closely followed developments related to the Legal Framework for Peace and the implementation of the reform of military courts' jurisdiction, in particular its impact on the investigation and prosecution of false positive cases.

3. Georgia

91. During the reporting period, the Office continued to follow up on investigations into alleged crimes committed during the armed conflict and to engage with relevant stakeholders at regional and national levels. The Office sought updates on the status of national proceedings; whether any additional information remains to be provided to the Office; and whether the lack of cooperation identified as an obstacle both by the Russian and Georgian authorities may be overcome through enhanced mutual legal assistance between the two States. For this purpose, and to establish contacts with the new Government of Georgia, the Office of the Prosecutor conducted a mission to Georgia during which the Office of the Prosecutor delegation also interacted with Georgian NGOs.

4. Guinea

92. In accordance with its policy on positive complementarity, the Office of the Prosecutor has sought to encourage national proceedings in order to bring to account those bearing the greatest responsibility for the alleged crimes committed on 28 September 2009 in Conakry. During the reporting period, judicial authorities in Guinea indicted three additional officials for crimes allegedly committed on 28 September 2009. Indictees included the former Minister of Health and the current head of presidential security. This brought the total number of persons indicted in relation to the incident to eight. The Office of the Prosecutor conducted two missions to Guinea to examine progress made in the national investigation, to gauge the prospects of a trial in the near future, and to facilitate domestic and international support for the judicial proceedings.

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[3] Office of the Prosecutor, Situation in Colombia: Interim Report, 14 November 2012: available at www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/comm%20and%20ref/pe-ongoing/colombia/Pages/Situation-in-Colombia-Interim-Report.aspx.

5. Honduras

93. During the reporting period, the Office of the Prosecutor continued its engagement with NGOs, regional stakeholders and senders of article 15 communications in order to gather additional information on the situation in Honduras. The Office updated its analysis on the basis, inter alia, of the report of the alternative Truth Commission (Comision de Verdad), published on 3 October 2012. The Office continued to evaluate, including on the basis of additional information received, whether the alleged crimes committed in Honduras since June 2009 amount to crimes against humanity.

6. Registered vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia

94. On 14 May 2013, the Office of the Prosecutor received a referral by the authorities of the Union of the Comoros "with respect to the 31 May 2010 Israeli raid on the Humanitarian Aid Flotilla bound for Gaza Strip". A copy of the referral has been made available on the International Criminal Court website. The referral makes reference to seven vessels allegedly attacked, and requests the Prosecutor to investigate the incident. According to the referral, three of the vessels comprising the flotilla were registered within the Comoros, Greece and Cambodia, respectively. In accordance with the requirements of the Rome Statute, the Office of the Prosecutor initiated a preliminary examination to establish whether the criteria for opening an investigation have been met.

7. Nigeria

95. During the reporting period, the Office reached the determination that there is a reasonable basis to believe that crimes against humanity have been committed in Nigeria, namely, acts of murder and persecution attributed to Boko Haram. Therefore, the Prosecutor decided that the preliminary examination of the situation in Nigeria should advance to phase 3 (admissibility), with a view to assessing whether the national authorities are conducting genuine proceedings with respect to those who appear to bear the greatest responsibility for such crimes, and the gravity of such crimes. To this end, the Office of the Prosecutor has requested from the Government of Nigeria information on relevant proceedings in Nigeria and has carried out a mission to Abuja.

8. Republic of Korea

96. The preliminary examination is focused on two incidents: (a) the shelling of Yeonpyeong Island on 23 November 2010; and (b) the sinking of the Republic of Korea warship *Cheonan* on 26 March 2010. The Office is analysing the contextual elements under article 8 and the underlying acts, in order to determine whether the information available provides a reasonable basis to believe that war crimes were committed in the course of either incident. In addition, the Office is analysing whether either incident was committed as part of a plan or policy, in accordance with article 8(1). In July 2013, the Office received additional information on both incidents from the Republic of Korea, which will be further examined.

9. Mali

97. A report summarizing the results of the preliminary examination (the Office of the Prosecutor assessment of the article 53(1) criteria for initiation of an investigation) was published concurrently with opening of the investigation.

IV. International cooperation

A. Cooperation with the United Nations

98. The New York Liaison Office continued to promote cooperation between the International Criminal Court and the United Nations, represent the Court in various meetings, follow developments of relevance for the Court and assist in organizing relevant events and visits of senior Court officials.

99. The Court's heads of organ met with several senior United Nations officials during the reporting period, including the United Nations Secretary-General, the Deputy Secretary-General, the Legal Counsel, the Assistant Secretary-General of the Office of Legal Affairs, the Under-Secretary-General of the Department of Security and Safety, the Assistant Secretary-General of the Department of Peacekeeping Operations, the Special Representatives for Children and Armed Conflict and on Sexual Violence in Conflict, the Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women, and also numerous Permanent Representatives to the United Nations, in order to discuss the relationship between the Court and the United Nations and matters of cooperation. The President addressed the General Assembly on 1 November 2012 and the Prosecutor briefed the Security Council on four occasions regarding the situations in Darfur and Libya. In addition, the Court's principals received visits at the seat of the Court from the Special Adviser on the Prevention of Genocide and the Special Representative for the Democratic Republic of the Congo.

100. The President of the Court and a representative of the Office of the Prosecutor addressed the first open debate of the Security Council held on the theme "Peace and justice, with a special focus on the role of the International Criminal Court", convened by the Guatemalan presidency of the Council, on 17 October 2012, in an effort to increase and strengthen the relationship between the two institutions. Additionally, the Prosecutor participated in informal interactive dialogue meetings with the legal advisers of States parties sitting in the Security Council.

101. The annual working level round table between the United Nations and the International Criminal Court took place through video link on 6 and 7 December 2012. The two institutions seized that opportunity to update each other on their respective developments at both the judicial and operational levels, as well as on the challenges they face. For the first time, a defence counsel was invited to reply to questions from the United Nations and discuss the cooperation and support by the United Nations to the various defence teams. The matter of support to the defence was also taken up by the Registrar during his visit to New York in July 2013, whereby agreement was reached with officials of the Office of Legal Affairs, the Department of Political Affairs and the Department of Peacekeeping Operations to further explore and develop appropriate modalities to ensure that adequate support to the defence is provided by relevant missions of the Department of Peacekeeping Operations and the Department of Political Affairs.

102. The Court continued to benefit from the logistical assistance provided by the United Nations in the countries where it carries out its activities, including through United Nations missions such as the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Office at Nairobi, the United Nations Operation in Côte d'Ivoire (UNOCI) and the United Nations Integrated Peacebuilding Office in the Central African Republic. The assistance provided during the reporting period included the use of 324 United Nations flights operated by United Nations missions. Initial contacts were established in July 2013 with MINUSMA, with a view to envisaging cooperation in connection with the activities of the Court in the country. Finally, the Court is grateful for the United Nations assistance in providing technical support on issues concerning the testimony of witnesses in cases before the Court and for the Security Council having lifted the travel ban against Mr. Ntaganda.

103. The Court appreciated the adoption of the revised United Nations guidelines on non-essential contacts with persons subject to an arrest warrant issued by the Court and the presentation of said guidelines given by a representative of the Office of Legal Affairs at the Hague Working Group on cooperation.

104. The Trust Fund for Victims also benefits from the support of the United Nations and continues to work closely with different United Nations agencies at the global and country levels, including in building capacity activities of agencies implementing Trust Fund projects, ensuring relevant linkage of the Trust Fund assistance projects and domestic transitional justice initiatives, providing assistance to victims and fostering collaboration and partnership.

105. The Court is included in the United Nations security and safety arrangements in all areas of the operations of the Court and has liaised closely with the United Nations security officials in each of these locations. On 11 July 2013, the Registrar met with the Under-Secretary-General of the Department of Safety and Security to discuss the amendments to the existing memorandum of understanding to reflect the modified template approved by the United Nations Inter-Agency Security Management Network in 2010. An amended agreement is expected to be adopted before the end of the present year. On 12 June 2013, the Court concluded a memorandum of understanding with UNOCI encompassing cooperation matters. Furthermore, discussions between the Court and the United Nations have taken place with a view to concluding a similar agreement with MINUSMA. Finally, the United Nations was represented at the eleventh session of the Assembly of States Parties, which was held in The Hague from 14 to 22 November 2012. The Court was very pleased with the keynote address given by the Administrator of the United Nations Development Programme on complementarity and by the attendance of a representative of the United Nations Office on Drugs and Crime to the side event on the protection of witnesses.

B. Cooperation with and assistance from States, other international organizations and civil society

Technical support from States

106. The Court continues requesting the assistance of States to fulfil its mandate. During the reporting period, the Registry transmitted 691 requests for visas and 220 requests for cooperation, including 11 requests to international organizations.

The Office of the Prosecutor sent 307 requests for assistance to 54 different partners, including States parties, non-State parties, international and regional organizations and others.

107. In the context of the constant interactions of the Court with the authorities of situation countries, the new Registrar carried out his first visit to the Democratic Republic of the Congo from 23 to 26 June 2013. With regard to the situation in Libya, and despite numerous efforts, the Registry has not yet finalized a memorandum of understanding creating a legal framework for the necessary operational arrangements of the Court in Libya. Also, the Office of the Prosecutor signed an agreement on judicial cooperation with the Government of Mali in February 2013.

108. In March and June 2013, the Court organized two high-level seminars for fostering cooperation in Nuremberg, Germany, to promote mutual understanding and cooperation between the Court and Governments, as well as international and regional organizations. Approximately 40 decision makers attended each seminar. At this occasion, two witness relocation agreements were signed with African States. Both seminars were funded mainly by the European Commission, Germany and the International Organization of the Francophonie.

109. The Court continued its urgent call for States to enter into relocation agreements. A seminar on the protection of witnesses was organized in Dakar on 25 and 26 June 2013 for French-speaking African States by the embassies of Norway, the Netherlands and Estonia, with the assistance of the Court. A similar seminar is planned for October 2013 for English-speaking countries.

110. The Court is grateful for the voluntary contributions from its States parties and from international organizations (Austria, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Norway, Poland, Republic of Korea, Switzerland, European Commission, International Organization of the Francophonie and Hanns Seidel Foundation) for the different extrabudgetary activities of the Court.

Diplomatic support from States

111. In order to maintain the support to and increase the understanding of the Court, the heads of organs held numerous high-level meetings with State representatives at the seat of the Court and paid official visits to numerous countries on various continents, where they met with a number of senior State figures. The President met with a number of senior State figures, including the Presidents of Bolivia (Plurinational State of), Germany, Malawi, Mali, Senegal and Slovakia. The Prosecutor made several visits to African countries, such as Côte d'Ivoire, Libya, Senegal and Tunisia; to Japan, as well as to a number of European countries including Finland, Germany, Sweden and Switzerland, where she met with various senior Government officials. These visits paved the way for strengthening the relationship between the Court and the respective States parties in areas of cooperation and assistance. The Prosecutor also visited States not party to the Rome Statute, such as the United States, Thailand and Turkey.

112. The Court held two diplomatic briefings in The Hague in order to update the diplomatic community on the work of the Court, as well as to introduce the newly elected officials, that is, the Registrar and the Deputy Prosecutor.

Relationship with regional organizations

113. The second African Union-International Criminal Court joint seminar took place on 17 and 18 October 2012 at the African Union premises in Addis Ababa, with the purpose of establishing greater cooperation and mutual understanding. Participants included representatives of the African Union Commission and the Permanent Missions of the African Union member States, as well as officials of the International Criminal Court. The event was held with the support of the International Organization of la Francophonie and the Governments of Austria and the Netherlands. A third joint seminar is being planned in 2013. Representatives from the African Union also participated in the two high-level seminars for fostering cooperation in Nuremberg (see para. 108). On 29 July 2013, a senior African Union delegation, led by the Ethiopian Minister for Foreign Affairs and Chairperson of the African Union Executive Council, visited the Court and met with the President and the Prosecutor.

114. During the reporting period, the Court had various exchanges with the European Union. The President spoke at the European Parliament and held several meetings in Brussels, including with the President of the European Parliament, the Executive Secretary General of the European External Action Service, the European Union Development Commissioner and the Chair of the Subcommittee on Human Rights. The Office of the Prosecutor continued to meet on a regular basis with representatives from the European External Action Service, including the Managing Director for Africa, as well as with members of the European Parliament, who visited the seat of the Court. The Prosecutor was in contact with the Chair of the Political and Security Committee and the Office of the Prosecutor gave a briefing in Parliament on International Criminal Court situations. Finally, the Court briefed the International Criminal Court sub-area of the public international law working party on two occasions. The Court is grateful to the European Commission for financially supporting the seminar and training of Counsel, the legal tools project and the placement of interns and visiting professionals, as expressed by the Registrar during his visit to Brussels on 4 June 2013.

115. The Office of the Prosecutor has ensured continued interaction at the working level with the Office of the Secretary General of the League of Arab States.

116. The Court has continued to interact on a regular basis with the Organization of American States (OAS); the President of the Court and representatives from the Registry and the Office of the Prosecutor participated in the working meeting on the International Criminal Court in April 2013, which focused on enhancing cooperation between the two organizations.

Relationship with the civil society

117. Three strategic-level meetings were held between the Court and non-governmental organizations in The Hague, in addition to regular contacts between the Court and representatives of civil society, which continued to provide essential support to the Court.

V. Institutional developments

A. Elections and appointment

118. Herman von Hebel (the Netherlands) was elected on 8 March 2013 as the new Registrar for a five-year term. He was sworn in on 18 April 2013 and succeeds Silvana Arbia. James Stewart (Canada) was elected on 16 November 2012 as Deputy Prosecutor by the Assembly of States Parties for a nine-year term. He was sworn in on 8 March 2013.

119. Judge Anthony T. Carmona (Trinidad and Tobago) resigned from the Court effective 18 March 2013. An election to fill the vacant seat will be held at the twelfth session of the Assembly of States Parties in November 2013.

B. Assistance to and from the Special Court for Sierra Leone and United Nations tribunals

120. The Court and the United Nations or special tribunals continued to cooperate on a variety of issues. The Registrar met with the Registrars of the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone to discuss cooperation issues. The willingness of the Tribunal to put at the disposal of the Court its premises in the event of a trial or a hearing in situ in Arusha was much appreciated. The Court also participated in the discussions on the legacy of the United Nations tribunals. Finally, the Court welcomed the participation of the Prosecutor of the International Tribunal for the Former Yugoslavia in the plenary discussion on cooperation at the eleventh session of the Assembly of States Parties.

121. The Court continues to detain Charles Taylor at the request of the Special Court for Sierra Leone.

VI. Conclusion

122. The reporting period covered another increasingly busy year for the International Criminal Court.

123. It is paramount that the Court, as a judicial body, exercise its mandate in full independence. To do this, it needs strong and consistent support from the international community. It is particularly crucial that States provide timely and full cooperation to the Court in accordance with their legal obligations, and that appropriate action be taken in cases of non-cooperation.

124. The Court notes with satisfaction the adoption of a revised United Nations policy on non-essential contacts and is highly appreciative of the continued operational assistance provided by the United Nations and its agencies. The Court encourages regional organizations and States to commit to continued support.